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**Government of the District of Columbia**



**Department of Consumer and Regulatory Affairs**

**Testimony of**

**Linda K. Argo**

**Director**

**&**

**Lennox Douglas**

**Chief, Permit Operations Division**

**on**

***Proposed Resolution 18-665***

***The “Billboard Blight Removal Approval  
Resolution of 2009”***

**Council of the District of Columbia**

**Committee on Public Services and Consumer Affairs**

**Muriel Bowser, Chair**

**February 18, 2010**

Room 123

John A. Wilson Building

1350 Pennsylvania Avenue, NW

Washington, DC 20004

2:00 P.M.

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Good afternoon, Chairperson Bowser, members, and staff of the Committee on Public Services and Consumer Affairs. I am Linda Argo, Director of the Department of Consumer and Regulatory Affairs. With me is Lennox Douglas, Chief of the Permit Operations Division at DCRA. We are here today to testify on Proposed Resolution 18-665, the “Billboard Blight Removal Approval Resolution of 2009.”

P.R. 18-665 would approve proposed regulations promulgated by DCRA and published in the D.C. Register on December 25, 2009 (56 DCR 9565). These regulations would allow DCRA to reduce the number of billboards in the District by offering the owners of some billboards the option of exchanging them for Special Sign permits.

The proposed regulations were transmitted to the Council as a result of a December 14, 2009 settlement agreement between the District and Clear Channel Outdoor, Inc. (“Clear Channel”), a copy of which I have attached to my written testimony (Attachment A). Our obligation under that settlement agreement was to use our best efforts to transmit the proposed regulations and approval resolution to the Council by December 22, 2009, in exchange for Clear Channel removing five billboards – located at 4<sup>th</sup> and P Streets, NW (Ward 5) and 3rd and K Streets, NE (Ward 6). Having done all that the settlement agreement required us to do, we take

no position on the merits of the proposed regulations, but we appreciate the Committee moving quickly to consider the matter.

I'd like to provide a brief overview for those uninitiated with the world of billboards and Special Signs in the District of Columbia. A Special Sign is one of 32 outdoor advertising signs allowed in the District. They are not billboards, at least not in legal terms. Most are located on the sides of buildings, with the remainder, mostly along the New York Avenue corridor, being free-standing. A Special Sign can be moved to a new location, so long as that location is within the approved geographic boundaries, pursuant to Title 12A of the D.C. Municipal Regulations, Section 3107.17.7. Attached to my written testimony is a map showing those boundaries and the current locations of the 32 Special Signs (Attachment B), which is also available on the DCRA website – [dcra.dc.gov](http://dcra.dc.gov) – under the “Outdoor Advertising Signs” link on the main page.

A billboard is a commercial advertising sign that may be deemed “authorized” only if it was in existence as of December 31, 1971, and was included in the “Authorized List of Billboards, Three-sheet Poster Boards, and Wall Signs,” dated November 30, 1931, as amended through December 31, 1971 (a copy of which is attached to my testimony and is available on the DCRA website) (Attachment C).

No changes in size or location are allowed for authorized-list billboards, and once a billboard is removed or demolished it can't be rebuilt on or relocated to another site. Our research to date has identified a total of nine authorized-list billboards at five locations in the District as of December 1, 2009. All were owned by Clear Channel. Of those nine billboards, five were removed by Clear Channel as part of the settlement agreement, leaving only four authorized-list billboards.

I have heard concerns that enactment of these proposed regulations would lead to a proliferation of Special Signs, but that is simply not the case. The four remaining authorized-list billboards are at three locations: Florida Avenue & Third Street, NE (one billboard); 1021 Brentwood Road, NE (two billboards); and 1815 Montana Avenue, NE (one billboard). All are owned by Clear Channel and none are in residential zones. I should emphasize that if the proposed regulations are enacted, any decision to offer Special Sign permits in exchange for the removal of any or all of these billboards would be made by DCRA on a case-by-case basis, considering the billboards' location, any legal basis for ordering their removal, and input from the community.

I must also strongly emphasize that the owners of billboards that do not appear on the authorized list would have no opportunity to swap those billboards for special signs. Indeed, we ask anyone who thinks an outdoor advertising sign

may be an unauthorized billboard to email us the sign's location at [Signs.DCRA@dc.gov](mailto:Signs.DCRA@dc.gov).

In the past several months, we have spent a significant amount of time gathering historic documents and information related to billboards in the District. As we have learned more about which billboards were actually authorized over the past eight decades, we have ordered several unauthorized billboards removed in Wards 1, 5, and 6; in each instance, the property owner removed the billboard without incurring a fine. Some may question why no fines were issued. We believe that the owners of unauthorized outdoor advertising signs are often unaware of the signs' illegality and, rather than fine the owners for their lack of awareness, our approach has been to ask them to remove unauthorized signs within a set time period. If they fail to remove the signs at the end of that abatement period, we will remove them and issue fines.

We recently met with representatives from Scenic America, Scenic D.C., and the D.C. Federation of Citizens Associations to discuss how we can work together to identify and remove illegal billboards. We look forward to this partnership and urge other community groups to join us in this effort.

Chairperson Bowser, thank you for the opportunity to testify on PR18-665. Mr. Douglas and I would be happy to answer any questions you may have at this time.

**Attachment A**

**Settlement Agreement Between  
the District of Columbia Government and Clear Channel Outdoor, Inc.**

**GOVERNMENT OF THE DISTRICT OF COLUMBIA  
OFFICE OF THE ATTORNEY GENERAL**



ATTORNEY GENERAL

December 14, 2009

Frederick D. Cooke, Jr., Esq.  
Rubin, Winston, Diercks, Harris & Cooke, LLP  
1201 Connecticut Avenue, NW, Suite 200  
Washington, D.C. 20036

Re: Billboards at 311 P Street, N.W., and 3<sup>rd</sup> & K Streets, N.E.

Dear Mr. Cooke:

The purpose of this letter is to memorialize an agreement between the District of Columbia Government ("District") and your client, Clear Channel Outdoor, Inc. ("Clear Channel"), resolving a dispute with respect to Clear Channel's four billboards at 311 P Street, N.W. (the "P Street billboards"), and one billboard at 3<sup>rd</sup> & K Streets, N.E.

On October 2, 2009, the District's Department of Consumer and Regulatory Affairs ("DCRA") ordered Clear Channel to remove the P Street billboards not later than October 6, 2009. Citing 12A DCMR §§ 3107.7.6.1, 3107.7.6.7(4), and 3107.7.6.7(6), the Department's order stated that "each of these billboards is unauthorized because it is located within 200 feet of another billboard and within 200 feet of a residential district." The order further stated that if the billboards were not removed, "the Department may cause the billboards to be removed and assess the cost of their removal as a tax against the real property at 311 P Street, N.W., pursuant to D.C. Official Code Section 42-3131.01(a)(1)."

In response, Clear Channel filed an action in the Superior Court of the District of Columbia ("Superior Court") for injunctive relief to prevent the District from removing the P Street billboards. Clear Channel asserted that the billboards are on the November 30, 1931 list of billboards authorized by 12A DCMR § 3107.7.6.1, and that, as a result, the District is without legal authority under 12A DCMR § 3107.7.6.3 to compel or undertake their removal. After the Superior Court granted Clear Channel's motion for a temporary restraining order against enforcement of the billboard removal order, but before the Superior Court decided the case on the merits, DCRA vacated its billboard removal order. The following day, November 13, 2009, the Superior Court dismissed the case as moot.

Frederick D. Cooke, Jr., Esq.  
December 14, 2009  
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On December 2, 2009, DCRA adopted an emergency rule ("Emergency Rule") amending Title 12A, Chapter 3107A, Section 3107.7.6 of the DCMR, to provide for the removal of certain billboards on the November 30, 1931 list of billboards, as amended through December 31, 1971, based on their being "located on lots within 200 feet of any Residential District, as defined by the Zoning Regulations." The billboards to which the Emergency Rule pertains include the P Street billboards as well as Clear Channel's one billboard at 3<sup>rd</sup> & K Street, N.E. (hereinafter referred to collectively as the "Five Billboards").

The District Government and Clear Channel, having met through their respective counsel, and desiring to resolve this dispute amicably, thereby avoiding the time, expense, and uncertainty of litigation, do hereby agree as follows:

1. Clear Channel will begin work to remove the Five Billboards no later than December 15, 2009, and will complete their removal no later than December 21, 2009. Clear Channel will remove any supporting posts for the Five Billboards no later than December 31, 2009.
2. The District will not enforce the Emergency Rule with respect to billboards owned by Clear Channel.
3. No later than December 22, 2009, the Mayor will submit for publication in the D.C. Register a proposed rulemaking (i) to amend the District's regulations governing Special Sign Permits so as to authorize DCRA to issue new Special Sign Permits as compensation to billboard owners who agree to remove billboards listed on the November 30, 1931 list of billboards, as amended through December 31, 1971; and (ii) to rescind the Emergency Rule. The District will promptly transmit – using its best efforts to do so no later than December 22, 2009 – a proposed Resolution to the Council to approve the proposed rulemaking.
4. If the proposed amendment becomes effective, then, in accordance with the regulations applicable to Special Sign Permits, Clear Channel may apply for, and DCRA shall promptly approve and issue, three Special Sign Permits as compensation for the Five Billboards removed by Clear Channel pursuant to this agreement. The Special Sign Permits issued to Clear Channel pursuant to this agreement shall be subject to the same regulations applicable to other Special Sign Permits, except that they shall not be subject to

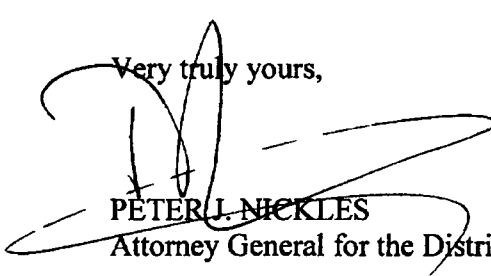


Frederick D. Cooke, Jr., Esq.  
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any numerical cap on the total number of Special Sign Permits  
issued by DCRA.

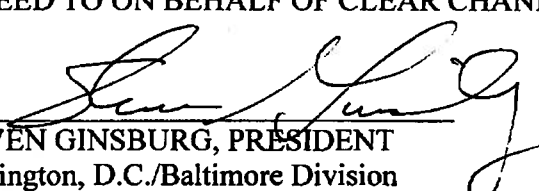
This agreement resolves only the parties' dispute regarding the Five Billboards, described  
above, and is enforceable only by the parties hereto. This agreement may be enforced  
through specific performance.

Very truly yours,



PETER J. NICKLES  
Attorney General for the District of Columbia

AGREED TO ON BEHALF OF CLEAR CHANNEL OUTDOOR, INC.:

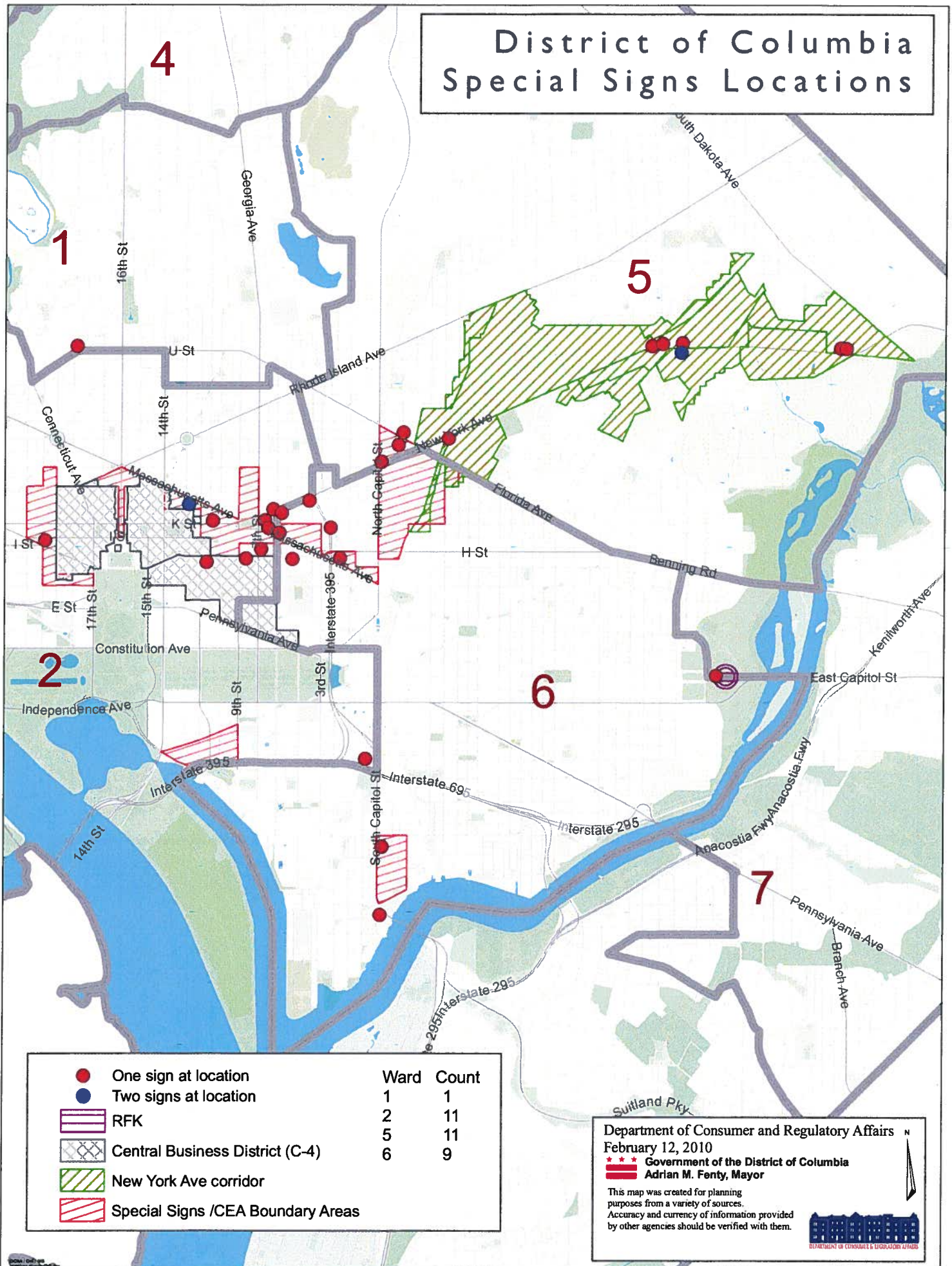


STEVEN GINSBURG, PRESIDENT  
Washington, D.C./Baltimore Division  
Clear Channel Outdoor, Inc.

## Attachment B

### Map of Special Sign Locations

# District of Columbia Special Signs Locations



●	One sign at location	Ward	Count
●	Two signs at location	1	1
▨	RFK	2	11
▨	Central Business District (C-4)	5	11
▨	New York Ave corridor	6	9
▨	Special Signs /CEA Boundary Areas		

Department of Consumer and Regulatory Affairs  
February 12, 2010

\*\*\* Government of the District of Columbia  
Adrian M. Fenty, Mayor

This map was created for planning purposes from a variety of sources. Accuracy and currency of information provided by other agencies should be verified with them.



## Attachment C

The Authorized List of Billboards, Three-sheet Poster Board, and Wall Signs, dated November 30, 1931, as amended through December 31, 1971

# AUTHORIZED LIST OF BILLBOARDS

AUTHORIZED LIST OF BILLBOARDS, THREE-SHEET POSTER BOARDS, AND WALL SIGNS, dated November 30, 1931, as amended through December 31, 1971.

Location	Number	Size (feet)	Type
First Street, N.E., 908	1	12x20	B
First Street, N.E., 1006	1	4x8	B
Second Street, S.W., 211	1	12x25	B
Third Street, S.W., 236	1	12x15	B
Third Street, S.W., 401	1	12x30	B
Third Street, S.W., 401	3	12x25	B
Fourth Street, S.W., 601	1	8x9	B
Fourth Street, S.W., 1013	1	10x10	B
Fourth Street, N.W., 1220	2	4x8	B
Fourth Street, N.W., 1501	4	12x25	B
Fourth Street, N.W., 1723	2	4x8	B
Fifth Street, N.W., 1615	1	4x8	B
Sixth Street, N.W., 507	1	25x35	B
Sixth Street, N.W., 1551	1	4x8	B
Sixth Street and Pennsylvania Avenue, S.E.	1	12x30	B
Sixth Street and Pennsylvania Avenue, S.E.	4	12x25	B
Seventh Street, N.W., 1500	1	6x18	B
Eighth Street, N.W.,	1	12x35	B
Near 1748			
Ninth Street, N.W., 501-515	4	12x25	B
Ninth Street, N.W., 618	2	12x25	B
Ninth Street, N.W., 702	1	10x20	B
Ninth Street, N.W., 1100	1	12x25	B
Ninth Street, N.W., 1335	1	4x8	B
Ninth Street, N.W., 1401	1	5x20	B
Ninth Street, N.W., 1401	1	4x8	B
Ninth Street, N.W., 1555	1	9 1/2x12	B
Eleventh Street, S.E., 1200	1	4x8	B
Eleventh Street, S.E., 1252	1	12x25	B
Eleventh Street, N.W., 1401	1	4x8	B
Eleventh Street, N.W., 1439	2	4x8	B
Eleventh Street, N.W., 1603	1	7x21 1/2	B
Eleventh Street, N.W., 1651	1	4x8	B
Eleventh Street, N.W., 3100	2	4x8	B
Eleventh Street, N.W., 3400	1	4x8	B
Twelfth Street, N.W., 2263	2	10x20	B
Twelfth Street, N.W., 2263	1	10x20	B
Fourteenth Street, N.W.,	1	10x25	B
1820			
Fourteenth Street, N.W.,	2	4x8	B
3801			
Eighteenth Street, N.W.,	1	4x8	B
2216			
Eighteenth Street, N.W.,	1	4x8	B
2278			
Barry Place, N.W., 900	2	4x8	B
Banning Road, N.E., 1915	1	13x19	B
Bladenburg Road, N.E.,	1	4x8	B
1094			
Bladenburg Road, N.E.,	2	12x25	B
2719-31			
Brentwood Road, N.E., 1021	2	12x25	B
Brentwood Road, N.E., 1201	2	12x25	B
E Street, N.W., 1201	1	4x8	B
East Capitol Street, 1382	1	12x25	B
Florida Avenue, N.W., 600	1	12x25	B
G Street, N.W., 107	1	4x8	B
Georgia Avenue, N.W., 3200	1	10x10	B
H Street, N.E., 1498	1	12x25	B
K Street, N.E., 301	1	10x25	B
K Street, N.W., 600	1	8x15 1/2	B
L Street, N.W., 2514	1	4x8	B
M Street, S.E., 100	2	12x18	B
M Street, S.E., 1022	1	10x10	B
M Street, N.W., 2447	1	4x8	B
Maryland Avenue, R.E., 1428	1	12x25	B
Massachusetts Avenue, N.W.,	1		
46			
Montana Avenue, N.E., 1815	1	12x48	B
N Street, N.W., 309	1	4x8	B
New Jersey Avenue, N.W., 401	8	12x25	B
New Jersey Avenue, N.W., 501	1	4x8	B
New Jersey Avenue, N.W., 629	1	8x12	B
New Jersey Avenue, N.E.,	1	4x8	B
1526			
Nichols Avenue, S.E., 2252	1	4x8	B
Patterson Street, N.E., 2	1	12x25	B
Riggs Road, N.E., 170	2	12x25	B
Riggs Road, N.E., 190	1	12x48	B
Sherman Avenue, N.W., 3401	1	12x25	B
Sherman Avenue, N.W., 3419	1	10x25	B
South Capitol Street, 1356	1	8x10	B
Tennessee Avenue, N.E., 614	1	4x8	B
U Street, N.W., 1437	1	4x8	B
Vermont Avenue, N.W., 1633	1	4x8	B

TYPE "B" - Billboard or Poster Board  
TYPE "W" - Wall Sign